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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,983	05/08/2000	GUSTAVO DECO	P000861	5072

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SCHIFF HARDIN & WAITE
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

EXAMINER

OROPEZA, FRANCES P

ART UNIT PAPER NUMBER

3762

DATE MAILED: 10/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

Advisory Action

Application No.

09/530,983

Applicant(s)

DECO ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
 2. ☒ The proposed amendment(s) will not be entered because:
 (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ they raise the issue of new matter (see Note below);
 (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
 4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
 6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
 7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-18.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
 9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
 10. ☐ Other: _____

GEORGE R. EVANISKO
 PRIMARY EXAMINER

10/23/02

Frances P. Oropeza

10-23-02

Continuation of 2. NOTE:

The insertion of "flow" for the information in claim 18 would require further search and consideration.

Continuation of 5. does NOT place the application in condition for allowance because:

The Applicant's arguments have been fully considered, but are not convincing.

The Applicant states Ravdin et al. (US 5862304) use a neural network and training method to predict future disease occurrence using sets of prognostic variables for which disease occurrence is not known. The Applicant also notes the instant invention involves determining the abnormality of a system by the use of a heretofore unknown information flow of the system which is independent of the normal changes in the dynamics of a physiological signal. While a distinction can be understood based on the Applicant's arguments, the claims claim prediction of an abnormality based on a difference in the comparison information flow and the test information flow, the information flow read to be comparison of the various prognostic variables as they dynamically change / flow / interact, hence the art of record is deemed to read on the claims as written and the rejections of record stand. If the Applicant elects to pursue prosecution, it is suggested an RCE and an amendment of the claims be submitted, the amendment clarifying the relation of the information flow to the normal changes or dynamics of the system. As an additional point, if the information flow is described as "continuous", it will clarify information flow, which without the distinction, could be read as occurring sporadically.

The Applicant states Ravdin et al. (US 5862304) and Abrams et al. (US 6117066) are not combinable because the Examiner did not explain why they are combinable. The references are deemed combinable because Ravdin et al. disclose a method to predict a medical condition (c 1, ll 9-11), that medical condition being cancer or psychiatric problems (c 3, ll 18-28), so appropriate therapy can be selected (c 1, ll 25-28) and Abrams et al. (US 6117066) teach the treatment of psychiatric disorders (abstract), read as teaching appropriate therapy for psychiatric problems. In addition, the argument that Ravdin et al. and Abrams et al. lack motivation to combine is not persuasive since the Examiner has provided that motivation in the final rejection, Paper No.10 paragraph 5, as a way "to provide proven means to treat neurological and psychiatric disorders so that damaging and potentially fatal conditions associated with neurological and psychiatric disorders such as seizures can be identified and treated before they occur".